

Senate File 2360

H-8375

1 Amend the amendment, H-8333, to Senate File 2360, as
2 passed by the Senate, as follows:
3 1. Page 1, by striking lines 1 through 39 and
4 inserting:
5 <Amend Senate File 2360, as passed by the Senate, as
6 follows:
7 1. By striking everything after the enacting clause
8 and inserting:
9 <Section 1. Section 124.401, subsection 5, Code
10 2014, is amended by adding the following new unnumbered
11 paragraph after unnumbered paragraph 2:
12 NEW UNNUMBERED PARAGRAPH. A person may knowingly
13 or intentionally recommend, possess, use, dispense,
14 deliver, transport, or administer cannabidiol if the
15 recommendation, possession, use, dispensing, delivery,
16 transporting, or administering is in accordance with
17 the provisions of chapter 124D. For purposes of this
18 paragraph, "*cannabidiol*" means the same as defined in
19 section 124D.2.
20 Sec. 2. NEW SECTION. 124D.1 Short title.
21 This chapter shall be known and may be cited as the
22 "*Medical Cannabidiol Act*".
23 Sec. 3. NEW SECTION. 124D.2 Definitions.
24 As used in this chapter:
25 1. "*Cannabidiol*" means a nonpsychoactive
26 cannabinoid found in the plant *Cannabis sativa* L.
27 or *Cannabis indica* or any other preparation thereof
28 that is essentially free from plant material, and has
29 a tetrahydrocannabinol level of no more than three
30 percent.
31 2. "*Department*" means the department of public
32 health.
33 3. "*Intractable epilepsy*" means an epileptic seizure
34 disorder for which standard medical treatment does
35 not prevent or significantly ameliorate recurring,
36 uncontrolled seizures or for which standard medical
37 treatment results in harmful side effects.
38 4. "*Neurologist*" means an allopathic or osteopathic
39 physician board-certified in neurology in good standing
40 and licensed under chapter 148 or an allopathic or
41 osteopathic physician board-certified in neurology in
42 good standing and licensed in any other state.
43 5. a. "*Primary caregiver*" means a person, at least
44 eighteen years of age, who has been designated by a
45 patient's neurologist or a person having custody of a
46 patient, as being necessary to take responsibility for
47 managing the well-being of the patient with respect
48 to the medical use of cannabidiol pursuant to the
49 provisions of this chapter. A patient may have one or
50 more designated primary caregivers.

1 *b. "Primary caregiver"* includes but is not limited
2 to the following:

3 (1) An employee of a hospice program, if the
4 employee meets the definition of a primary caregiver
5 under paragraph "a".

6 (2) An individual providing home and
7 community-based services, and including a home health
8 agency, licensed, certified, or otherwise authorized
9 or permitted by the law of this state or another state
10 to administer health care in the ordinary course of
11 business or in the practice of a profession, if the
12 individual meets the definition of a primary caregiver
13 under paragraph "a".

14 Sec. 4. NEW SECTION. 124D.3 Neurologist
15 recommendation — medical use of cannabidiol.

16 A neurologist who has examined and treated a patient
17 suffering from intractable epilepsy may provide but
18 has no duty to provide a written recommendation for
19 the patient's medical use of cannabidiol to treat or
20 alleviate symptoms of intractable epilepsy if no other
21 satisfactory alternative treatment options exist for
22 the patient and all of the following conditions apply:

23 1. The patient is a permanent resident of this
24 state.

25 2. The neurologist or another neurologist has
26 treated the patient for intractable epilepsy for at
27 least six months.

28 3. The neurologist has tried alternative treatment
29 options that have not alleviated the patient's
30 symptoms.

31 4. The neurologist determines the risks of
32 recommending the medical use of cannabidiol are
33 reasonable in light of the potential benefit for the
34 patient.

35 5. The neurologist maintains a patient treatment
36 plan.

37 Sec. 5. NEW SECTION. 124D.4 Cannabidiol
38 registration card.

39 1. *Issuance to patient.* The department may approve
40 the issuance of a cannabidiol registration card by the
41 department of transportation to a patient who:

42 *a.* Is at least eighteen years of age.

43 *b.* Is a permanent resident of this state.

44 *c.* Provides the department with a written
45 recommendation signed by a neurologist that the
46 patient may benefit from the medical use of cannabidiol
47 pursuant to section 124D.3.

48 *d.* Submits an application to the department, on a
49 form created by the department, in consultation with
50 the department of transportation, that contains all of

1 the following:

2 (1) The patient's full name, Iowa residence
3 address, date of birth, and telephone number.

4 (2) A copy of the patient's valid photo
5 identification.

6 (3) Full name, address, and telephone number of the
7 patient's neurologist.

8 (4) Full name, residence address, date of birth,
9 and telephone number of each primary caregiver of the
10 patient, if any.

11 (5) Any other information required by rule.

12 2. *Patient card contents.* A cannabidiol
13 registration card issued to a patient by the department
14 of transportation pursuant to subsection 1 shall
15 contain, at a minimum, all of the following:

16 a. The patient's full name, Iowa residence address,
17 and date of birth.

18 b. The patient's photo.

19 c. The date of issuance and expiration date of the
20 registration card.

21 d. Any other information required by rule.

22 3. *Issuance to primary caregiver.* For a patient in
23 a primary caregiver's care, the department may approve
24 the issuance of a cannabidiol registration card by the
25 department of transportation to the primary caregiver
26 who:

27 a. Is at least eighteen years of age.

28 b. Provides the department with a written
29 recommendation signed by a neurologist that a patient
30 in the primary caregiver's care may benefit from the
31 medical use of cannabidiol pursuant to section 124D.3.

32 c. Submits an application to the department, on a
33 form created by the department, in consultation with
34 the department of transportation, that contains all of
35 the following:

36 (1) The primary caregiver's full name, residence
37 address, date of birth, and telephone number.

38 (2) The patient's full name.

39 (3) A copy of the primary caregiver's valid photo
40 identification.

41 (4) Full name, address, and telephone number of the
42 patient's neurologist.

43 (5) Any other information required by rule.

44 4. *Primary caregiver card contents.* A cannabidiol
45 registration card issued by the department of
46 transportation to a primary caregiver pursuant to
47 subsection 3 shall contain, at a minimum, all of the
48 following:

49 a. The primary caregiver's full name, residence
50 address, and date of birth.

1 *b.* The primary caregiver's photo.
2 *c.* The date of issuance and expiration date of the
3 registration card.
4 *d.* The full name of each patient in the primary
5 caregiver's care.
6 *e.* Any other information required by rule.
7 5. *Expiration date of card.* A cannabidiol
8 registration card issued pursuant to this section shall
9 expire one year after the date of issuance and may be
10 renewed.
11 6. *Card issuance — department of transportation.*
12 The department may enter into a chapter 28E agreement
13 with the department of transportation to facilitate the
14 issuance of a cannabidiol registration card pursuant to
15 subsections 1 and 3.
16 Sec. 6. NEW SECTION. 124D.5 Department duties —
17 rules.
18 1. *a.* The department shall maintain a confidential
19 file of the names of each patient to or for whom the
20 department issues a cannabidiol registration card
21 and the name of each primary caregiver to whom the
22 department issues a cannabidiol registration card under
23 section 124D.4.
24 *b.* Individual names contained in the file shall be
25 confidential and shall not be subject to disclosure,
26 except as provided in subparagraph (1).
27 (1) Information in the confidential file maintained
28 pursuant to paragraph "a" may be released to the
29 following persons under the following circumstances:
30 (a) To authorized employees or agents of the
31 department and the department of transportation as
32 necessary to perform the duties of the department and
33 the department of transportation pursuant to this
34 chapter.
35 (b) To authorized employees of state or local
36 law enforcement agencies, but only for the purpose of
37 verifying that a person is lawfully in possession of a
38 cannabidiol registration card issued pursuant to this
39 chapter.
40 (2) Release of information pursuant to subparagraph
41 (1) shall be consistent with the federal Health
42 Insurance Portability and Accountability Act of 1996,
43 Pub. L. No. 104-191.
44 2. The department, in consultation with the
45 department of transportation, shall adopt rules to
46 administer this chapter which shall include but not
47 be limited to rules to establish the manner in which
48 the department shall consider applications for new and
49 renewal cannabidiol registration cards.
50 Sec. 7. NEW SECTION. 124D.6 Medical use of

1 **cannabidiol — affirmative defense.**

2 1. *a.* A recommendation for the possession or use
3 of cannabidiol as authorized by this chapter shall be
4 provided exclusively by a neurologist for a patient who
5 has been diagnosed with intractable epilepsy.

6 *b.* Cannabidiol provided exclusively pursuant to the
7 recommendation of a neurologist shall be obtained from
8 an out-of-state source and shall only be recommended
9 for oral or transdermal administration.

10 *c.* A neurologist shall be the sole authorized
11 recommender as part of the treatment plan by the
12 neurologist of a patient diagnosed with intractable
13 epilepsy. A neurologist shall have the sole authority
14 to recommend the use or amount of cannabidiol, if any,
15 in the treatment plan of a patient diagnosed with
16 intractable epilepsy.

17 2. A neurologist, including any authorized agent
18 thereof, shall not be subject to prosecution for the
19 unlawful recommendation, possession, or administration
20 of marijuana under the laws of this state for
21 activities arising directly out of or directly related
22 to the recommendation or use of cannabidiol in the
23 treatment of a patient diagnosed with intractable
24 epilepsy.

25 3. *a.* In a prosecution for the unlawful possession
26 of marijuana under the laws of this state, including
27 but not limited to chapters 124 and 453B, it is an
28 affirmative and complete defense to the prosecution
29 that the patient has been diagnosed with intractable
30 epilepsy, used or possessed cannabidiol pursuant to a
31 recommendation by a neurologist as authorized under
32 this chapter, and, for a patient eighteen years of
33 age or older, is in possession of a valid cannabidiol
34 registration card.

35 *b.* In a prosecution for the unlawful possession
36 of marijuana under the laws of this state, including
37 but not limited to chapters 124 and 453B, it is an
38 affirmative and complete defense to the prosecution
39 that the person possessed cannabidiol because the
40 person is a primary caregiver of a patient who has
41 been diagnosed with intractable epilepsy and is in
42 possession of a valid cannabidiol registration card,
43 and where the primary caregiver's possession of the
44 cannabidiol is on behalf of the patient and for the
45 patient's use only as authorized under this chapter.

46 *c.* (1) The defenses afforded a patient under
47 paragraph "a" apply to a patient only if the quantity
48 of cannabidiol oil possessed by the patient does not
49 exceed thirty-two ounces.

50 (2) The defenses afforded a primary caregiver

1 under paragraph "b" apply to a primary caregiver only
2 if the quantity of cannabidiol oil possessed by the
3 primary caregiver does not exceed thirty-two ounces per
4 patient.

5 d. If a patient or primary caregiver is charged
6 with the commission of a crime and is not in possession
7 of the person's cannabidiol registration card, any
8 charge or charges filed against the person shall be
9 dismissed by the court if the person produces to the
10 court at the person's trial a cannabidiol registration
11 card issued to that person and valid at the time the
12 person was charged.

13 4. An agency of this state or a political
14 subdivision thereof, including any law enforcement
15 agency, shall not remove or initiate proceedings
16 to remove a patient under the age of eighteen from
17 the home of a parent based solely upon the parent's
18 or patient's possession or use of cannabidiol as
19 authorized under this chapter.

20 Sec. 8. NEW SECTION. 124D.7 Penalties.

21 A person who knowingly or intentionally possesses or
22 uses cannabidiol in violation of the requirements of
23 this chapter is subject to the penalties provided under
24 chapters 124 and 453B.

25 Sec. 9. NEW SECTION. 124D.8 Repeal.

26 This chapter is repealed July 1, 2017.

27 Sec. 10. STUDY. The university of Iowa school
28 of medicine shall establish and conduct a clinical
29 research study to determine the outcomes and results
30 of cannabidiol on patients diagnosed with intractable
31 epilepsy. The university shall submit its findings and
32 recommendations to the department of public health and
33 the general assembly on or before July 1, 2017.>

34 2. Title page, by striking line 2 and inserting
35 <penalties.>>

KLEIN of Washington